

### **REMARKS**

Claims 1-11 are pending. Claims 1, 2, 4, 8, 9 and 10 were amended to more particularly point out and distinctly claim the present invention. Claim 3 was amended to correct an antecedent basis problem.

### **Examiner Interview**

Applicants wish to thank Examiner Nguyen for extending the courtesy of a telephone interview in respect to this application on May 25, 2006 with Applicants' undersigned representative. During the interview, the contents of a previously faxed draft Amendment After Final was discussed wherein the independent claims were amended to recite that "each recording segment has its own leading address." The Examiner stated that this proposed claim amendment appears to patentably distinguish over Takashi, but does not patentably distinguish over Figs. 3a-3d, Figs. 22a-22d and Figs. 23a-23d of Gushima.

In a subsequent telephone call on May 25, 2006, Applicants' undersigned representative proposed a further amendment to the independent claims to explicitly recite that the data recording device has a plurality of recording segments that include only audio blocks, only audio and multi-audio blocks, or only video blocks. The Examiner agreed that upon initial review, this language appears to distinguish over Gushima's recording segments, all of which include both audio and video blocks. This response formally incorporates the further amendment, and thus is not identical to the draft Amendment After Final.

### **Entry of Rule 116 Response**

Entry of this response is requested because such response does not raise any new issues that would require further consideration and/or search. No new matter is raised by this response.

Exemplary Fig. 8 clearly shows that each recording segment has its own leading address<sup>1</sup> and that there are recording segments with only audio blocks or only video blocks.

This response could not have been previously presented because the Examiner's detailed reasoning for rejecting the claims was fully explained for the first time in the "Response to Arguments" section of the Final Rejection and during the telephone interview. Lastly, it is requested that the response be entered even if the application is not allowed because this response will place the application in better form for appeal by materially simplifying the issues.

If the application is not in proper form for allowance, Applicants request that the Examiner telephone the undersigned to discuss any further outstanding issues.

### **Prior Art Rejections**

Claims 1-6 and 8-10 were rejected under 35 U.S.C. § 102(b)<sup>2</sup> as allegedly being anticipated by JP 11-144392 (Takashi).

Claims 1-5 and 7-11 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,506,825 (Gushima et al.), hereafter, "Gushima."

Claims 7 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Takashi in view of U.S. Patent No. 5,940,351 (Fujinami et al.).

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gushima in view of U.S. Patent No. 5,684,784 (Iwasaki et al.).

These rejections are respectfully traversed.

#### **1. Patentability of independent claims 1, 2, 4, 8, 9 and 10 over Takashi**

Each of the independent claims recites, in part, that audio blocks or video blocks are recorded respectively from a leading address of a recording segment and that each recording

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<sup>1</sup> See the paragraph spanning pages 4-5 of the previous Amendment which reads as follows:

leading address of recording segment = first address of DV0 immediately following the end of the preceding dummy data, first address of DV1 immediately following the end of the preceding dummy data, first address of A1(0) immediately following the end of the preceding dummy data, first address of A2(0) immediately following the end of the preceding dummy data

<sup>2</sup> The Office Action erroneously refers to 102(e).

segment has its own leading address. An exemplary embodiment of this limitation is shown in Fig. 8 as described in the previous response.

In the previous response, it was argued that Takashi has no discussion of recording segments or leading addresses of recording segments. In the Final Rejection, the Examiner provides the following new explanation regarding these limitations:

The audio block or video bock [sic] is recorded from a leading address since the audio block or video bloc [sic] is recorded in an order to be normally reproduced. Takahashi [sic] further teaches that the audio bock [sic] or video boc [sic] of a recording segment (recording track) is recorded from a leading address since each of the audio bock [sic] and/or video bock [sic] having an address and used as a play back location of a optical disc to reproduce the recorded an audio bock [sic] and/or video bock [sic] on a track of the optical disk (Sections 0029, 0033).

Applicants respectfully assert that the mere fact that audio or video may be recorded in an order to be normally reproduced does not mean that the audio blocks or video blocks are recorded respectively from a leading address of a recording segment or that each recording segment has its own leading address. No leading address is required to record audio or video in this manner. In fact, the figures in Takashi that show the contents of data blocks, such as Figs. 3 and 7, merely show consecutive blocks of audio and video data, without any leading addresses. Furthermore, the audio and data blocks in Takashi change sequentially for each unit block without any leading addresses therebetween. Thus, even if it could be argued that the audio and data blocks in Takashi are recorded from a leading address of a recording segment that perhaps may not be visible in the figures, each audio or video block would not have its own (respective) leading address.

For at least the reasons set forth above, the independent claims are believed to be patentable over Takashi.

None of the remaining applied references make up for the above-noted deficiencies in Takashi.

2. Patentability of independent claims 1, 2, 4, 8, 9 and 10 over Gushima

In the previous response, it was argued that Gushima suffers from the same deficiency as Takashi in that there is no disclosure in Gushima that audio blocks are recorded respectively from the leading address of a recording segment.

In response, the Examiner provides the following new explanation regarding these limitations:

...Gushima teaches that each segment on which the audio block and or video block is recorded having address area the address in the address area are considered as leading address since audio block and video block is recorded after the address area [sic]. Further, it is noted that the claims also does not recite any relationship between the audio block and or video block with the leading address.

The Examiner now asserts that the audio and video blocks in Gushima are recorded after the address area ADR, such as shown in Fig. 3a of Gushima. Although Applicants disagree with this characterization of Gushima, to advance prosecution of the patent application, the independent claims were further amended to recite that the data recording device has a plurality of recording segments that include only audio blocks (claims 1, 8), only audio and multi-audio blocks (claims 4, 10), or only video blocks (claims 2, 9).

In contrast to the claimed invention, even if it is presumed that (i) the address area ADR in Gushima is equivalent to the claimed leading address, and (ii) the recording segments are the data fields that follow the address area ADR, Gushima's recording segments shown in Figs. 3a-3d, Figs. 22a-22d and Figs. 23a-23d always include both audio and video blocks. That is, Gushima does not disclose recording segments that have their own leading address, and (ii) include only audio blocks, only audio and multi-audio blocks, or only video blocks.

For at least the reasons set forth above, the independent claims are believed to be patentable over Gushima.

None of the remaining applied references make up for the above-noted deficiencies in Gushima.

3. Patentability of dependent claims

The dependent claims are believed to be patentable over the applied references for at least the reason that they are dependent upon allowable base claims and because they recite additional patentable elements and steps.

**Conclusion**

Insofar as the Examiner's rejections were fully addressed, the instant application is in condition for allowance. Entry of the Rule 116 Amendment, withdrawal of the Final Rejection, and issuance of a Notice of Allowability of all pending claims, is therefore earnestly solicited.

Respectfully submitted,

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(Date)

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